Department for
International Trade

Open General Export Licence

Export After Repair/replacement under warranty: Military Goods

November 2017

Open General Export Licence (Export After Repair/replacement under warranty: Military Goods) dated 14 November 2017 granted by the Secretary of State.

The Secretary of State, in exercise of powers conferred by Article 26 of the Export Control Order 2008[1] (the Order) hereby grants the following Open General Export Licence.

Licence

1. Subject to the following provisions of this licence, any goods specified in Part A of Schedule 1 hereto, other than any goods specified in Part B, which have been imported for the purpose of repair or replacement under warranty may be subsequently exported from the United Kingdom to any destination except a destination in a country specified in Schedule 2 provided the goods are being exported for delivery to:

   (1) a Government which sent them to the United Kingdom for the purpose of repair/replacement under warranty;

   or to any destination, except a destination in a country specified in Schedule 2, providing the goods are being exported for delivery to:

   (2) the NATO Maintenance and Supply Agency provided that they had been previously sent to the United Kingdom by or on behalf of the Agency for the purpose of repair/replacement under warranty; or

   (3) any other person provided that the goods had been previously exported from the United Kingdom for delivery to that person in accordance with an export licence granted by the Secretary of State within five years of the date of importation for the purposes of repair/replacement under warranty.

Exclusions

2. This licence does not authorise the export of goods:

   (1) if the exporter has been informed by a competent authority that they are or may be intended, in their entirety or in part, for use in connection with the development, production, handling, operation, maintenance, storage, detection, identification or dissemination of chemical, biological or nuclear weapons, or other nuclear explosive devices or the development, production, maintenance or storage of missiles capable of delivering such weapons;

   (2) if the exporter is aware that the goods are intended, in their entirety or in part, to be used in connection with one of the activities referred to in sub-paragraph (1);

[1] S.I. 2008/3231, as amended

(3) if the exporter has grounds for suspecting that the goods are or may be intended, in their entirety or in part, for any uses referred to in sub-paragraph (1), unless the exporter has made all reasonable enquiries as to their proposed use and is satisfied that the goods will not be so used;

(4) if the exporter has been informed by a competent authority, or is otherwise aware, that the equipment or information has been classified by the Ministry of Defence as OFFICIAL-SENSITIVE or above (including UK material classified RESTRICTED or above, graded prior to 2 April 2014, and internationally security classified material), **unless;**

a. the proposed export has been approved by the Ministry of Defence under MOD Form 680 and a written letter of clearance has been issued, and
   (i). The clearance is not time expired at the time the export takes place, and
   (ii). The goods are identical to those for which the clearance was given, **or;**

b. if the proposed export is in support of any sub-contracting or collaboration activity that directly contributes towards a United Kingdom Government defence contract where the approval has been provided by:

   (i). the Ministry of Defence under F1686 (Application to sub-contract or collaborate with an overseas contractor on work involving OFFICIAL-SENSITIVE and above classified information) as identified in the Security Policy Framework issued by the Cabinet Office (and included in the UK Government OFFICIAL-SENSITIVE Security Conditions) and a written letter of clearance has been issued, **or**
   (ii). the Ministry of Defence Contracting Authority under a letter delegating authority up to an OFFICIAL-SENSITIVE level to an identified company Security Controller to approve the export, **or**
   (iii). any written letter of approval as identified in any applicable Project Security Instructions (PSI) approved by collaborating partner nations' governments **and**

c. for all goods classified CONFIDENTIAL, for material classified by the UK prior to 2 April 2014, or internationally security classified CONFIDENTIAL equivalent material, or SECRET or above, the exporter has a current written Security Transportation Plan that has been approved in a written letter of clearance issued by the MOD Defence Equipment and Support (DE&S) Principal Security Advisor.

(5) in the case of intangible technology transfers it is prohibited to export technology classified OFFICIAL-SENSITIVE or above

(including UK material classified RESTRICTED or above, graded prior to 2 April 2014, and internationally security classified material) **unless:**
the method of transmission is protected by encryption appropriate to the classification of the data **and**

a. the exporter holds any necessary clearance from a government accreditation authority which can be produced to the Compliance Officer.

(6) which fall within the scope of Council Directive 91/477/EEC on Control of the Acquisition and Possession of Weapons[2];

(7) or technology specified in Part 1 of Schedule 2 to the Order which have any of the functions or characteristics of information security described in Category 5 part 2 of Annex 1 to Council Regulation (EC) No. 428/2009[3];

(8) to a destination within a Customs Free Zone;

(9) where the exporter has, at the time of export, been served with a notice which suspends or revokes their ability to use this licence pursuant to article 32(1) of the Order, unless the period of suspension or revocation has expired.

Conditions and Requirements

3. The authorisation in paragraph 1 is subject to the following conditions:

(1) before an exporter first exports goods under this licence, they shall have informed the Secretary of State of their intention to export goods under this licence, specifying the name of the exporter and the address at which copies of records of their export may be inspected under condition 3(5) below;

(2) on exportation of any goods pursuant to this licence the exporter shall produce to an officer of UK Border Force, if so requested, documentary evidence of the date of their importation into the United Kingdom and of any repairs to them carried out in the United Kingdom;

(3) on exportation of any goods pursuant to paragraph 1(3) of this licence the exporter shall produce to an officer of UK Border Force, if so requested:

(a) a copy of the export licence under which the goods were originally exported from the United Kingdom; and

(b) documentary evidence that the goods are being exported for

[2] OJ No. L256, 13.9.91, p.51
[3] OJ No.L34 29.5.2009

return to the person to whom they were originally delivered.

(4) except in the case of an export of technology by telephone, fax or other electronic media, official and commercial export documentation accompanying the goods shall include a note stating either:

(a) "the goods are being exported under the OGEL (Export After Repair/replacement under warranty: Military Goods)"; or

(b) the SPIRE reference (in the form 'SPIRE reference GBOGE 20??/?????') of the exporter's registration in respect of this licence

which shall be presented to an officer of UK Border Force if so requested;

(5) in respect of the export of goods under this Open General Export Licence, the exporter shall maintain the following records:

(a) the date and destination of each export;

(b) any MOD Form 680, F1686 or Security Transportation Plan clearance letters, MOD Contracting Authority letter, or proof of PSI clearance referred to in 2(4)(a) to 2(4)(c) above;

(6) records shall be maintained for at least four years after the date of the relevant export and the exporter shall permit the records to be inspected and copied by any person authorised by the Secretary of State;

(7) prior to audit, the ECO will issue a pre-visit questionnaire (PVQ). This must be completed, in full, and returned by the date given.

(8) the exporter shall notify the Secretary of State of any change in the address referred to in paragraph 3(1) above within 30 days of that change.

(9) where the exporter has received a warning letter sent on behalf of the Secretary of State which identifies failure to comply with this licence or a provision of applicable export control legislation, the exporter shall take such steps as are identified in that warning letter (within the timescale stated) in order to restore compliance with the licence. Without prejudice to article 34 of the Order, failure to comply with this condition may result in this licence being revoked or suspended until the exporter can show compliance to the satisfaction of the Export Control Organisation. The exporter will be notified in writing of any such suspension or revocation and the initial period of such suspension or revocation. Where at the end of this initial period, the exporter has not shown compliance to the satisfaction of the Export Control Organisation, the period of suspension or revocation may be extended. The exporter will be notified of such an extension in writing.

(10) the Secretary of State has the power to vary or withdraw export licences at any time. If you do not use this licence within any 24-month period for an export allowed by this licence, your entitlement to use it will automatically run out at the end of that 24-month period and your registration details will be removed from SPIRE. However, you can register for this licence again if you want to use it after your registration has ended.

(11) you **must** update the '**Open licensing returns**' within SPIRE, for **all** exports or trade carried out within each calendar year. You **must** update the returns by the last day of the following January at the latest (for example, you would need to update the January to December returns by the end of the following January) and include **all** the information required. You do **not** have to report on technology transfers.

Prohibitions not affected by this licence

4. Nothing in this licence shall affect any prohibition or restriction on the exportation or the carrying out of any act with respect of the exportation of any goods concerned under, or by virtue of, any enactment other than a prohibition or restriction in the legislation under which this licence was issued, as set out in the licence itself.

Interpretation

5. For the purpose of this licence:

(1) "the Act" means the Export Control Act 2002[4];

(2) "cluster munitions" means conventional munitions designed to disperse or release "explosive submunitions";

(3) "explosive submunitions" means conventional munitions, weighing less than 20 kilograms each, which in order to perform their task are dispersed or released by another conventional munition and are designed to function by detonation of an explosive charge prior to, on or after impact;

(4) "explosive bomblets" means conventional munitions, weighing less than 20 kilograms each, which are not self-propelled and which, in order to perform their task, are specially designed to be dispersed or released by a dispenser affixed to an aircraft, and are designed to function by detonating an explosive charge prior to, on or after impact;

(5) sub paragraphs (2) and (3) above do not include the following conventional munitions;

[4] 2002 c.28

(a) a munition or submunition designed to disperse flares, smoke, pyrotechnics or chaff; or a munition designed exclusively for an air defence role;
(b) a munition or submunition designed to produce electrical or electronic effects;
(c) a munition that has all of the following characteristics:

(i) each munition contains fewer than ten explosive submunitions;
(ii) each explosive submunition weighs more than four kilograms;
(iii) each explosive submunition is designed to detect and engage a single target object;
(iv) each explosive submunition is equipped with an electronic self-destruction mechanism;
(v) each explosive submunition is equipped with an electronic self-deactivating feature;

(6) "competent authority" means the Secretary of State or any other competent authority empowered by a Member State to issue export authorisations for the purposes of Council Regulation (EC) No. 428/2009;

(7) a “Customs Free Zone” means a part of the territory of a country where any goods introduced are generally regarded, insofar as import duties and taxes are concerned, as being outside the Customs territory of that country, and are not subject to the Customs controls that would otherwise apply;

(8) "entry" includes part of an entry;

(9) "government" includes any person appointed by a Government to act on its behalf;

(10) “MOD Form 680” is the means by which the Government assesses proposals by companies to release classified information or goods to foreign entities. An MOD Form 680 approval is not an approval to use an Open General Export Licence; it is a separate security requirement;

(11) “F1686” is the means by which exporters can obtain clearance to sub-contract or collaborate on aspects classified OFFICIAL-SENSITIVE or above on MOD projects with overseas companies. F1686 approval is not an approval to use an Open General Export Licence; it is a separate security requirement;

(12) "repair" means making good any remediable defects and work of maintenance or restoration. This may involve coincidental improvement upon the original goods, e.g. resulting from the use of modern replacement components or from use of a later standard for

reliability or safety reasons; provided that this does not result in any enhancement to the functional capability of the goods or provide the goods with new or additional functions. It may involve improvements of a purely cosmetic nature, e.g. paint finish;

(13) "replacement under warranty" shall not include any enhancement to the functional capability of the original goods or provide new or additional functions;

(14) unless the context otherwise requires, any other expression used in this licence shall have the meaning it has in the Act or the Order.

Entry into Force

6. This licence shall come into force on 17 November 2017.

7. The Open General Export Licence (Export After Repair/replacement under warranty: Military Goods) dated 13 July 2017 is hereby revoked.

An Official of the Department for International Trade authorised to act on behalf of the Secretary of State

SCHEDULE 1
GOODS CONCERNED

PART A

Any goods specified in Part 1 of Schedule 2 to the Order:

PART B

1. Goods falling within entry ML3 as follows:

(1) Cluster munitions, explosive submunitions, and specially designed components therefor;

2. Goods falling within entry ML4 as follows:

(1) Anti-personnel landmines and specially designed components therefor;
(a) Electrically driven detonators of exploding bridge, exploding bridge wire, slapper or exploding foil type;
(b) Multipoint detonation systems designed to nearly simultaneously initiate an explosive surface of greater than 5000mm^2 surface area from a single firing signal, with a timing spread over the surface of less than 2.5 microsecond;
(c) Explosive detonator firing sets designed to drive multiple controlled detonators (of the types listed in items (2)(a) and (2)(b) above);
(d) Modular electrical pulse generators which are ruggedised or are designed for portable or mobile use and have all of the following characteristics: are capable of delivering energy in less than 15 microsecond, output greater than 100A, rise time of less than 10 microsecond into loads of less than 40 ohms, no dimension greater than 25.4cm and weigh less than 25kg;
(e) Capacitors with:

(i) Voltage rating greater than 1.4kV, energy storage greater than 10J, capacitance greater than 0.5 microfarad and series inductance less than 50nH;
(ii) Voltage rating greater than 750V, capacitance greater than 0.25 microfarad and series inductance less than 10nH;

(f) Cold cathode tubes with three or more electrodes which have all of the following characteristics: an anode peak voltage rating of 2500V or more, an anode peak current rating of 100A or more and an anode delay time of 10 microsecond or less;
(g) Triggered spark gaps having an anode delay time of 15 microsecond or less and rated for a peak current of 500A or more;
(h) Modules or assemblies with a fast switching function having all of the following characteristics: anode peak voltage rating greater than 2000V, anode peak current rating of 500A or more and turn-on time of 1 microsecond or less;

3. Cluster munitions and specially designed components therefor;

4. Explosive bomblets and specially designed components therefor;

5. Explosive submunitions and specially designed components therefor;

6. ML8.a. Explosive co-crystals

ML8.a.12;
ML8.a.13;

ML8.a.15;

ML8.a.21;

ML8.a.23;

ML8.a.33;
ML8.a.35;
ML8.a.36;
ML8.a.37;
ML8.a.38;
ML8.a.39;
ML8.a.40;

ML8.c.5;

7. Goods falling within ML11 insofar as they are for use in connection with cluster munitions, explosive submunitions and explosive bomblets;

8. Pulse generators, switching modules or assemblies specified in entry ML11 meeting the specifications given in item 2(2)(d) to 2(2)(h) of Part B of this Schedule;

9. Goods falling within entry ML12 insofar as they are for use in connection with high-velocity gun systems capable of accelerating projectiles to 2km/s or greater;

10. Goods falling within ML16 insofar as they are for use in connection with Cluster munitions, explosive submunitions and explosive bomblets;

11. Goods falling within entry PL5001 c. and f.;

12. Technology, equipment and software specified in entries ML22, ML18, or ML21, related to equipment specified in 1 to 8 of Part B of this Schedule.

SCHEDULE 2
DESTINATIONS CONCERNED

This export authorisation is valid for exports to all destinations except:

PART A

Afghanistan, Albania, Angola, Argentina, Armenia, Azerbaijan, Belarus, Bosnia and Herzegovina, Burkina, Burma (Myanmar), Burundi, Central African Republic, China (including Hong Kong and Macau Special Administrative Region), Congo (Federal Republic of), Democratic Republic of the Congo, Ecuador, Egypt, Eritrea, Ethiopia, Georgia, Guinea, Indonesia, Iran, Iraq, Israel, Kazakhstan, Kyrgyzstan, Lebanon, Libya, Occupied Palestinian Territories, the Former Yugoslav Republic of Macedonia, Moldova, Mongolia, Montenegro, Nepal, Nigeria, North Korea, Peru, Russia, Rwanda, Serbia, Sierra Leone, Somalia, South Sudan, Sri Lanka, Sudan, Syria, Tajikistan, Tanzania, Turkmenistan, Uganda, Ukraine, Uzbekistan, Venezuela, Vietnam, Yemen and Zimbabwe.

EXPLANATORY NOTE
(This note is not part of the licence)

1. This Open General Export Licence revokes the previous version dated 13 July 2017. This version has been updated to add Venezuela to the excluded destinations in Schedule 2, following the introduction of EU sanctions measures. Bulgaria has been removed from Schedule 2. Changes have also been made to correct the numbering in paragraph 1 and the subsequent references to paragraph 1 from paragraph 3.

2. This licence permits exportation of goods specified in Part A of Schedule 1. This can be done without further authority subject to the licence conditions. Goods can be exported to destinations. from which they have been imported into the United Kingdom for the purpose of repair/replacement under warranty, where those goods are being exported for delivery to the government of the country by which they were sent to the UK, to the Nato Maintenance and Supply Agency, or to any other person provided that those goods have been previously exported from the United Kingdom to that person under an export licence granted within five years from the date of importation for the purposes of repair/replacement under warranty. This licence cannot be used to export goods specified in Part B of that Schedule 1.

3. The licence does not permit exportation of any goods which fall within the scope of Council Directive 91/477/EEC on the control of the acquisition and possession of weapons or to any goods or technology; which have certain functions or characteristics of information security; or which carry a UK classification of OFFICIAL-SENSITIVE or above unless the exporter has approval in writing from the Ministry of Defence.

MOD form F680: Apply electronically via SPIRE

(a) **Security Transportation Plan approvals can be obtained from:**

Defence Equipment & Support (DE&S)
Principal Security Advisor
Security Advice Centre
Poplar - 1
MOD Abbey Wood
Bristol,
BS34 8JH
Tel: 030 67934378
Fax: 030 67934925
e-mail: desinfra-securityadvicecentre@mod.uk

F1686 Procedure:

4. F1686 is the means by which exporters can obtain clearance to sub-contract or collaborate on aspects classified OFFICIAL-SENSITIVE or above on MOD projects with overseas companies. This procedure is laid out in the Security Policy Framework, issued by the Cabinet Office (and included in the UK Government

OFFICIAL-SENSITIVE Security Conditions). It is properly known as, "Application to subcontract or collaborate with an overseas contractor on work involving OFFICIAL-SENSITIVE and above classified information (also known as F1686)." For more information contact the DE&S Principal Security Advisor.

5. An exporter who exports goods under the authority of this licence must before his first exportation under the licence, inform the Secretary of State of their intention to export goods under this licence and of the address where copies of the said records may be inspected.

6. This notification must be made via the Export Control Organisation electronic licensing system, SPIRE, at www.spire.trade.gov.uk.

7. The Secretary of State has the power to suspend or revoke licences at any time and in such circumstances and on such terms as they think fit. If an exporter receives written notice to this effect, they will be prevented from relying on this licence. The power to suspend may be used in addition to criminal prosecution or as an alternative. Suspension may occur for example where an exporter is being investigated or prosecuted in relation to a possible criminal offence, or has been found guilty of a criminal offence under the export control legislation. It may also be used in situations where an exporter has breached the conditions of the licence and failed to take corrective action within a reasonable period.

8. Where the ECO identifies failures in compliance with licence conditions or the legislation during a compliance visit, the ECO may send a warning letter to the exporter listing the improvements that need to be made to ensure compliance. The letter will set out the timeframe within which these improvements must be completed. Failure to complete these improvements may lead to the exporter's ability to use the licence being suspended for a period of time.

9. The exporter may apply for Standard Individual Export Licences during the period of suspension. Suspension will not automatically prevent them from using another OGEL so long as they meet all its terms and conditions and they have not received a letter suspending or revoking their ability to use that licence.

10. The provisions of this licence only apply for the purposes of the Export Control Order 2008 (the Order). They do not affect the need to obtain other consents that may be required for the export of particular military goods, whether under other statutory provisions (such as the Official Secrets Act 1989) or because of contractual obligations. In addition, this licence does not extend to prohibitions in other legislation implementing United Nations Sanctions.

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